

CALIFORNIA STATE PERSONNEL BOARD MEETING\*  
801 Capitol Mall  
Sacramento, California

Public Session Location - Room 150

Closed Session Location - Room 141

MID-MONTH MINUTES\*\*

February 25, 2004

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

William Elkins, President  
Ron Alvarado, Vice President  
Sean Harrigan, Member  
Anne Sheehan, Member  
Maeley Tom, Member

2. REPORT OF THE EXECUTIVE OFFICER - Laura Aguilera, Interim  
Executive Officer

The Board was advised of the following:

- A. The Senate Committee on Government Oversight has postponed the hearing on the disciplinary process until March 22, 2004. State Personnel Board (SPB) Staff will meet with Senator Jackie Speier on February 26, 2004.
- B. The California Supreme Court has granted review of the Post & Bid case.

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\*\* The State Personnel Board Summary Minutes can be obtained at the following Internet address:  
**<http://www.spb.ca.gov/calendar.htm>**

- C. The Governor's California Performance Review (CPR) has appointed SPB Division Chief, Karen Coffee, to serve as the Assistant Team Leader for Human Resources. She will be on loan to the CPR through June 2004.
- D. Assemblyman Mervyn Dymally has agreed to author the Board's legislative proposal on Equal Opportunity Programs.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on the following:

Litigation:

- A. State Personnel Board (SPB) v. California State Employees Association and Department of Personnel Administration By unanimous vote, the California Supreme Court has granted SPB's petition for review of the decision of the Court of Appeal that upheld as consistent with the merit principle the provisions of the collective bargaining agreements that provide for appointments and promotions of eligible candidates to be based on seniority.
- B. Association of California State Attorneys and Administrative Law Judges (ACSA) v. Department of Personnel Administration (DPA); State Personnel Board v. DPA (3rd District Court of Appeals (DCA), Case No. 034943) - California Attorneys and Administrative Law Judges in State Employment (CASE, formerly ACSA), has requested a second extension of time to file its brief in the California Supreme Court on the issue of whether substituting binding arbitration for SPB review of discipline comports with the constitutional mandate that the SPB review disciplinary actions.
- C. California Department of Corrections v State Personnel Board (Henning) (3rd DCA Case No. C044329) - SPB's brief in this matter is due next week.

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4. REPORT ON LEGISLATION - Sherry Hicks

The Board was advised of the following:

- A. The Board will go on record as sponsors of AB 2275 (Dymally) and staff will pursue support of the bill.

VOTE: Elkins, Alvarado, Harrigan, Sheehan, Tom - Aye

BOARD ACTIONS

5. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF FEBRUARY 10, 2004

NO ACTION

6. ACTION ON SUBMITTED ITEMS

(See Minutes Page 16)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

7. EVIDENTIARY CASES

The Board Administrative Law Judges conducts Evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

On February 25, 2004, the Board adopted by vote as indicated below, the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Alvarado, Harrigan, Sheehan, Tom - Aye

DORYANNA ANDERSON-JOHNSON, CASE NO. 00-1687A  
Appeal from denial of reasonable accommodation  
Correctional Lieutenant  
California Rehabilitation Center - Norco  
Department of Corrections  
NO ACTION

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TIMOTHY BOBITT, CASE NO. 02-2856  
Appeal from suspension  
Senior Special Agent in Charge  
Department of Justice at Sacramento  
NO ACTION

RICHARD COELHO, CASE NO. 02-1796R  
Appeal from constructive medical termination  
Fish and Game Warden  
Department of Fish and Game  
NO ACTION

FRANK GARCIA, CASE NO. 03-1906  
Appeal from Dismissal  
Caltrans Highway Maintenance Worker  
Department of Transportation  
NO ACTION

CYNTHIA GEORGE, CASE NOS. 02-4017 & 03-1058  
Appeal from a two-week and a  
Three-week suspension  
Administrative Law Judge  
Unemployment Insurance Appeals Board  
NO ACTION

THEODORE HUGHING, CASE NO. 03-0354  
Appeal from Medical Termination  
Food Service Supervisor I  
Department of Developmental Services  
NO ACTION

MAMIE JONES, CASE NO. 02-4441  
Appeal from ten percent reduction  
in salary for five months  
Dispatcher Clerk with the  
Department of Transportation  
NO ACTION

B. CASES PENDING

- Oral Arguments  
These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

- Court Remands

These cases have been remanded to the Board by the court for further Board action.

NONE

- Stipulations - NONE

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

- Proposed Decisions

These are ALJ proposed decisions submitted to the Board for the first time.

SYLVIA AVILA, CASE NO. 03-2402  
Appeal from Official Reprimand  
Radiologic Technologist  
California Correctional Institution - Tehachapi  
Department of Corrections  
ACTION: Official reprimand sustained.

JANICE BROWN, CASE NO. 02-1607B  
Appeal for determination of back  
Salary, benefits, and interest  
Tax Technician II  
Board of Equalization  
ACTION: Salary, benefits and interest awarded.

TERESA COOK, CASE NO. 03-2389  
Appeal from rejection during probation  
Vocational Assistant  
Department of Health and Human Services  
ACTION: Rejection during probation sustained.

FRANK DRUMM, JR., CASE NO 03-0648E  
Appeal from discrimination  
Fish and Wildlife Scientific Aid (Seasonal)  
Department of Fish and Game  
ACTION: Appeal denied.

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ARNOLD EVANS, CASE NO. 03-0628  
Appeal from demotion from the position of Career  
Supervisory Assignment IV to the  
Position of Stationary Engineer  
Department of General Services  
ACTION: Demotion revoked.

BRENDA FAIN, CASE NO. 03-3343  
Appeal from dismissal  
Office Technician (Typing)  
Department of Mental Health  
ACTION: Appeal dismissed.

PETE FALCONER/RAMON PRIETO,  
CASE NOS. 02-4185 and 02-4181  
Appeal from five-percent reduction in salary for six  
months and twelve months respectively  
Correctional Sergeants  
Centinela State Prison -Imperial  
Department of Corrections  
ACTION: Five-percent reduction in salary for six  
months and twelve months revoked.

SHANNON FROEMING, CASE NO.03-2871E  
Appeal from denial of request for reasonable  
accommodation  
Employment Program Representative  
Employment Development Department  
ACTION: Administrative Law Judge's proposed decision  
rejected by Board. Board to decide case itself.

ANNA GRESHAM, CASE NO. 03-3360  
Appeal from termination with cause from limited term  
appointment  
Apparatus Engineer  
Department of Forestry and Fire  
ACTION: Appeal denied.

ELLIS C. JOSEPH, CASE NO. 03-1265  
Appeal from dismissal  
Toll Collector  
Department of Transportation  
ACTION: Dismissal sustained.

XUGUANG LENG, CASE NO. 03-0765  
Appeal from official reprimand  
Utilities Engineer  
California Public Utilities Commission  
ACTION: Official reprimand sustained.

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RAY MARTINEZ, CASE NO. 03-3344

Appeal from dismissal

Correctional Officer

Substance Abuse Treatment Facility - Corcoran

Department of Corrections

ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself.

CRAIG S. SCOTT, CASE NO. 03-3586

Appeal from ten-workdays suspension

Caltrans Highway Maintenance Worker

Department of Transportation

ACTION: Ten-work-days suspension modified to three-work-days suspension.

CHRISTINA TRUE, CASE NO. 03-2663

Appeal from termination with cause

Student Assistant (Temporary)

Department of Justice

ACTION: Board adopted Administrative Law Judge's proposed decision based on its conclusion that appellant was not entitled to a name clearing hearing, but held appellant not entitled to have the "with cause" designation removed.

DENNIS UYEDA, CASE NO. 03-2396

Appeal from ten-work-days suspension

Latent Print Analyst II

Department of Justice

ACTION: Ten-work-days suspension modified to five-work-days suspension.

- Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

- Proposed Decisions After Board Remand

NONE

- Proposed Decisions After SPB Arbitration

NONE

E. PETITIONS FOR REHEARING

- ALJ Proposed Decisions Adopted By The Board  
The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

ROBERT JENKINS, 03-0598P  
Appeal of Whistleblower Retaliation  
Staff Information Systems Analyst  
Department of Health Services  
Petition for rehearing filed by  
appellant to be granted or denied  
ACTION: Petition for rehearing filed by appellant  
denied.

- Whistleblower Notice of Findings  
The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

ANDREW CIRNER, CASE NO. 03-2241E  
Appeal from denial of request for  
reasonable accommodation  
Senior Psychiatric Technician  
Department of Mental Health  
NO ACTION

ROSIE L. DASHIELL, CASE NO. 03-2279  
Appeal from dismissal  
Public Safety Dispatcher I  
California Highway Patrol  
NO ACTION

RANDALL DODSON, Case No. 03-1587  
Appeal from non-punitive termination  
Caltrans Equipment Operator I  
Department of Transportation



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NO ACTION

RAYMOND ERNANDEZ, CASE NO. 01-4251

Appeal from five-percent reduction in salary for six months

Correctional Officer

California Institution for Men - Chino

Department of Corrections

NO ACTION

KEVIN FRAZIER, CASE NO. 03-0736

Appeal from a one-step reduction in salary for six months

Correctional Officer

California State Prison,

San Quentin

Department of Corrections

NO ACTION

CYNTHIA GEORGE, CASE NO. 03-2494

Appeal from suspension

Administrative Law Judge I

Unemployment Insurance Appeals Board

NO ACTION

DONALD HERMANS, CASE NO. 03-0384

Appeal from dismissal

Correctional Officer

California State Prison - Lancaster

Department of Corrections

NO ACTION

MARY HUTTNER, CASE NO. 02-1690

Appeal from demotion

Staff Services Manager I to the

position of Associate Health Program Advisor (top step)

Department of Health Services

NO ACTION

CONNIE JOHNSON, CASE NO. 03-2620

Appeal from 30 calendar days suspension

Employment Program Representative

Employment Development Department

NO ACTION

PAUL H. KEMP, Case No. 01-2841

Appeal from dismissal

Teacher Assistant - Youth Correctional Reception Center  
and Clinic - Sacramento

Department of the Youth Authority

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NO ACTION

JENNIFER KILL, CASE NO. 02-2164B

Appeal for determination of back salary, benefits and interest

Supervising Cook

California Correctional Institution - Tehachapi

Department of Corrections

NO ACTION

YVETTE MACK, CASE 03-0453

Appeal from 20 work days suspension

Administrative Support Coordinator I

CSU - Dominguez Hills.

NO ACTION

NEIL MADDEN, CASE NO. 03- 1682

Appeal from five percent reduction

in salary for three months

Correctional Officer

Centinela State Prison - Imperial

Department of Corrections

NO ACTION

DONNA MARTINEZ, CASE NO. 03-2232

Appeal from dismissal

Material & Stores Supervisor I

Central California Women's Facility,

Department of Corrections

NO ACTION

MARGARET A. MEJIA, CASE NO. 03-1848

Appeal from dismissal

Psychiatric Technician (Safety)

Department of Mental Health

NO ACTION

CHRISTOPHER MIRAMONTES, CASE NO.

03-2299

Appeal from five-percent reduction in salary for six months

Special Agent

Department of Corrections

NO ACTION

VIRGINIA PARKER, CASE NO. 03-0325

Appeal from demotion

Correctional Lieutenant

Ironwood State Prison - Blythe

Department of Corrections

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NO ACTION

NANCY SEARS, CASE NO. 02-2444

Appeal from two-step reduction in  
salary for 12 months and transfer/  
reassignment

Parole Agent I (Adult Parole)

Department of Corrections-Sacramento

NO ACTION

ELANGOVAN SITTRAMBARAM, CASE NO. 03-2401

Appeal from suspension for six-months

Student Administration Technical

Programmer/Analyst

California State University -

Long Beach

NO ACTION

NANCY VALENTINO, Case No. 03-0699

Appeal from dismissal

Psychiatric Technician

Department of Developmental Services

NO ACTION

ALICE VAN-THU, CASE NO.03-0413

Appeal from automatic resignation

Administrative Support Coordinator I

California State University

NO ACTION

PHUONG VU, CASE NO. 03-1145

Appeal from dismissal

Transportation Engineer (Civil)

Department of Transportation

NO ACTION

BOBBY WANG, CASE NO. 02-2684

Appeal from dismissal

Motor Vehicle Field Representative

Department of Motor Vehicles

NO ACTION

BEVERLY WILSON, CASE NO. 03-1150A

Appeal from dismissal

Administrative Support Assistant II

California State University

NO ACTION

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8. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION  
18671.1 EXTENSION  
(See Minutes Page 19-20)

9. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

On February 25, 2004, the Board adopted by vote as indicated below, the following decisions presented by Laura Aguilera, Interim Executive Officer, California State Personnel Board.

VOTE: Elkins, Alvarado, Harrigan, Sheehan, Tom - Aye

ROY BENNETT, CASE NO. 03-0820

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

EDWARD BOON, CASE NO. 03-0650

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

MYRON EPPS, CASE NO. 03-0839

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

BRANDON HENSON, CASE NO. 03-1724

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

RYAN KAUI, CASE NO. 03-1056

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

NATHAN KUSH, CASE NO. 03-1728

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

CHRISTOPHER LAMBERT, CASE NO. 03-1050

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

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FARON POPPLEWELL, CASE NO. 03-1054  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

MARIANO SANCHEZ, CASE NO. 03-1661  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

FRIDA STEWART, CASE NO. 03-0152  
Classification: Youth Correctional Officer  
California Youth Authority  
ACTION: DENIED

B. EXAMINATION APPEALS - NONE

MINIMUM QUALIFICATIONS

MERIT ISSUE COMPLAINTS

On February 25, 2004, the Board adopted by vote as indicated below, the following decisions presented by Laura Aguilera, Interim Executive Officer, California State Personnel Board.

VOTE: Elkins, Alvarado, Harrigan, Sheehan, Tom - Aye

(Minimum Qualification Cases)

DIANE DIVOKY, CASE NO. 02-3674; LAUREL GODDARD, CASE NO. 02-3869; ALAN HUMASON, CASE NO. 02-3506; SUSAN LUCYGA, CASE NO. 02-3829  
Classification: Associate Editor of Publications  
Department of Education  
ACTION: Retracted from agenda by State Personnel Board staff. Not for Board consideration.

(Merit Issue Complaint Case)

MARCIA ASGARIAN, CASE NO. 02-3996  
Classification: Psychology Associate, CF  
California Youth Authority  
ACTION: DENIED

C. PSYCHOLOGICAL SCREENING CASES

On February 25, 2004, the Board adopted by vote as indicated below, the following decisions presented by Laura Aguilera, Interim Executive Officer, California State Personnel Board.

VOTE: Elkins, Alvarado, Harrigan, Sheehan, Tom - Aye

KENNETH CAPPS, CASE NO. 03-3817  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

BRANDON CLEVELAND, CASE NO. 03-3804  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

CHARLENE CRAWFORD, CASE NO. 03-2338  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

SHARON FASSBENDER, CASE NO. 04-0022  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

ABEL GARZA, CASE NO. 03-3805  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

DANIEL GUERRA, CASE NO. 04-0021  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

CHRISTOPHER JARAMILLO, CASE NO. 03-3803  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

JIMMY ORTEGA, CASE NO. 03-2745  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

JAMES REIMBOLD, CASE NO. 04-0094  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

10. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY  
UNDER CONSIDERATION

(1) CHIEF OF LEGISLATION

The Department of Community Services and Development proposes to allocate the above position to the CEA category. The Chief of Legislation is responsible for developing and managing the Department of Community Services and Development's legislative program including policy development for the department's legislation and budgetary programmatic issues.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
ESTABLISH NEW CEA POSITIONS

(2) CHIEF, PERSONNEL MANAGEMENT

The California Highway Patrol's request to establish the above position to the CEA category has been approved effective January 28, 2004.

(3) EXECUTIVE MANAGER, COLORADO RIVER AFFAIRS

The Department of Water Resources request to establish the above position to the CEA category has been approved effective January 28, 2004.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)  
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003).

NO ACTION

4. PSC NO. 03-04  
Appeal of the California Department of Education and McGeorge School of Law from the Executive Officer's April 30, 2003, disapproval of a contract for special education mediation conferences and due process hearings. (Hearing held October 7, 2003).

NO ACTION



**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on February 25, 2004.

VOTE: Elkins, Alvarado, Harrigan, Sheehan, Tom - Aye.

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LAURA AGUILERA  
Interim Executive Officer  
California State Personnel Board